REMARKS

Claims 1-6, 9-14, and 17-20 are now pending in this application for which applicant seeks reconsideration.


Amendment

The title of the invention has been amended in light of the examiner's comment regarding manual performance. The preamble of the claims also has been amended accordingly. The preamble of claims 9-14 further has been amended to embed a program in a computer-readable medium to overcome the § 101 rejection. Non-elected claims 7, 8, 15, and 16 have been canceled without prejudice or disclaimer. Claims 1-6 and 9-14 have been amended to improve their form. Independent claims 1, 4, 9, and 12 further have been amended to more clearly define the present invention.

In particular, claims 1 and 9 now set forth the style setting storage portion for storing setting data in association with song data, and further call for searching the style storage portion for style data when the style setting data in association with song data selected from the song storage portion is not stored in the style setting storage portion. Moreover, claims 1 and 9 further call for reproducing the style setting data in association with the selected song data when the style setting data in association with the selected song data is stored in said style setting storage portion, and further call for reproducing the selected song data and the searched style data when the style setting data in association with the selected song data is not stored in the style setting storage portion. Support for these aspects of the invention is found at least on pages 12-14 and Figs. 3-4.

Independent claims 4 and 12 further have been amended to include a warning feature, namely warning the user when the style setting data set by the user's operation does not match the song data in said song storage portion. Support for this feature is found at least on pages 16-17 and Fig. 6.

New claims 17-20 have been added to further define the invention. Support for these claims is found at least on pages 15-16 and Figs. 4-5.

No new matter has been introduced.

<u>Art Rejection</u>

Claims 1, 2, 4-6, 9, 10, and 12-14 were rejected under 35 U.S.C. § 103(a) as unpatentable over Nakata (USP 5,824,932) in view of Aoki (USP 6,245,984). Claims 3 and 11 were rejected under § 103(a) as unpatentable over Nakata in view of Aoki and Takeuchi (USP 5,998,724). Applicant submits that amended independent claims 1, 4, 9, and 12 clearly define over the applied references because they would not have taught at least the searching and warning aspects set forth in these claims.

Independent claims 1 and 9 now call for, *inter alia*, a style setting storage portion for storing style setting data in association with song data. The style storage portion is searched for style data having at least one of tempo data or meter data matching with at least one of tempo data or meter data in song data selected from the song storage portion when the style setting data in association with song data selected from the song storage portion is not stored in the style setting storage portion. The style setting data in association with the selected song data is reproduced when the style setting data in association with the selected song data is stored in the style setting storage portion. The selected song data and the searched style data are reproduced when the style setting data in association with the selected song data is not stored in the style setting storage portion.

Independent claims 4 and 12 now call for, *inter alia*, warning a user when the style setting data set by the user's operation does not match the song data in the song storage portion.

Applicant submits that the applied references would not have disclosed taught these aspects of the invention. While Nakata discloses in its background that producing accompanying music based on the song data and the style data is known, Nakata does not explicitly disclose matching or searching the style data. In this respect, the examiner relied upon Aoki for the proposition that searching the style data to match the style of the selected song data would have been obvious. Applicant disagrees.

Nakata discloses having a user selecting song data and style data. The information for selecting the style data is already included in the song data. In Nakata, when the selected song data does not match the selected style data, either the selected song data or the selected style data is modified to match the other. Nakata would have taught away from searching for style data that matches with song data since it calls for modifying one or the other to match. In other words, there would not have been any need for Nakata to search as set forth in independent claims 1 and 9.

Even if Aoki were deem properly combinable for argument's sake, the combination still would not have taught searching for style data having at least one of tempo data or meter data matching with at least one of tempo data or meter data in song data selected from the song storage portion when the style setting data in association with song data selected from the song storage portion is not stored in the style setting storage portion discloses.  Indeed, Aoki discloses creating rhythm pattern, which is similar to a given motif or in contrast to a given motif, and melody based on the created rhythm pattern.  Here, the rhythm pattern does not mean a rhythm pattern for accompaniment, but rather a pattern of time points comprising the melody.  In other words, the rhythm pattern is an array of musical tones.  See column 12, lines 12-55.  Aoki calls for selecting an accompaniment or style by designating adjectival words (e.g., Urbane, Unrefined, etc.) independently from melody.  See column 8, line 49 to column 10, line 35.  Indeed, in contrast to the examiner's understanding, the passage (column 12, lines 43-48) relied upon by the examiner has nothing to do with searching style data to match with song data.  Accordingly, applicant submits that the combination would not have taught the invention set forth in claims 1 and 9.

Regarding claims 4 and 12, Nakata has the style selection information written in the song data.  Therefore, it is already selected.  Accordingly, neither Nakata nor Aoki would have provided any motivation or reason to generate any warning, let alone warning when the style setting data selected by user's operation does not match with song data.  Moreover, Nakata would not have disclosed or taught modifying the meter of style data to match that of song data when the meter of style data does not match with that of song data, as set forth in new claims 19 and 20.

Takeuchi merely discloses designating tone color for keyboard performance by user's operations.  Takeuchi would not have alleviated the shortcomings of Nakata and Aoki.

<u>Conclusion</u>

Applicant submits that claims 1-6, 9-14, and 17-20 patentably distinguish over the applied references and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicant urges the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

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<u>4 JANUARY 2007</u>                 */Lyle Kimms/*
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